

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| Assessment and Collection of Regulatory Fees |) | MD Docket No. 17-134 |
| for Fiscal Year 2017 |) | |

COMMENTS OF LEVEL 3 COMMUNICATIONS

Level 3 Communications, LLC, (Level 3) appreciates this opportunity to comment on the Federal Communications Commission’s (Commission) existing methodology for assessing regulatory fees on terrestrial International Bearer Circuits (IBCs). As Level 3 described in the context of the 2016 Regulatory Fees proceeding, the existing methodology is difficult to administer, not competitively neutral, and incents noncompliance with the Commission’s regulatory fee requirements.¹ The Commission should follow the blueprint for curing these issues it established in the 2009 *Submarine Cable Order* and adopt a flat-fee assessment methodology for terrestrial IBCs, whether offered on a common-carrier or non-common-carrier basis.² Level 3 incorporates its comments in the 2016 Regulatory Fees proceeding by reference.

Level 3 also responds to three additional issues raised in the context of the 2017 Regulatory Fees NPRM.³ First, the Commission notes that it relies on the Circuit Capacity Reports required under section 43.62 of the Commission’s rules to administer the annual regulatory fees established in Section 9 of the Act.⁴ As the International Carriers and Infrastructure Owners noted in IB Docket No. 17-55, while the Commission currently bases annual regulatory fees for international bearer circuits IBCs on the Circuit Capacity Reports, that data is *again* reported at the time the fees are paid, making the Section 43.62(a) reports redundant.⁵ To the extent the Commission needs information on the terrestrial IBC capacity held by each provider to calculate and assess the appropriate level of regulatory fees, the appropriate course of action would be to have providers file the data somewhat earlier instead of requiring them to file it twice.

Second, to the extent a provider is obligated, or willing, to pay the top fee tier for terrestrial IBCs (*i.e.*, the tier for the largest providers) under Level 3’s proposal, there is

¹ Level 3 Comments, MD Docket No. 16-166.

² *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order, 24 FCC Rcd 4208, 4212, para. 7 (2009) (*Submarine Cable Order*).

³ *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Notice of Proposed Rulemaking, FCC 17-62 (rel. May 23, 2017) (2017 Regulatory Fees NPRM).

⁴ *Id.* at n. 72; 47 C.F.R. § 43.62(a)(1).

⁵ Joint Comments of International Carriers and Infrastructure Owners, IB Docket Nos. 17-55, 16-131, at 17.

no need for the FCC to collect data on that provider's tally of terrestrial IBCs. Allowing providers to voluntarily pay the top tier fee would guarantee that those providers are carrying their share of the fee category, while at the same time driving the administrative burden of calculating and paying the fee to *de minimis* levels.

Finally, the Commission should continue to assess regulatory fees based on IBCs that were active as of December 31 of the prior year.⁶ It is significantly less burdensome for providers to identify circuits that are active at a fixed point in time than it is to identify IBCs that were active at any point during the preceding calendar year. Further, assessing regulatory fees on terrestrial IBCs that were active during any point in the preceding calendar year would provide little, or no, corresponding benefit. It is Level 3's experience that the terms for terrestrial IBCs generally run for at least one year. As a result, regardless of when a given terrestrial IBC becomes active, providers are obligated to pay a regulatory fee for each year that the circuit is in service.

Respectfully submitted,

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⁶ 2017 Regulatory Fees NPRM at para. 27.